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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

**THE CATHOLIC BISHOP OF
SPOKANE a/k/a THE CATHOLIC
DIOCESE OF SPOKANE**

Debtor.

COMMITTEE OF TORT LITIGANTS,

Plaintiff,

v.

**THE CATHOLIC BISHOP OF
SPOKANE, et al.,**

Defendants.

Case No.: 04-08822-PCW11

Chapter 11

Adv. Case No. 05-80038

**COMMITTEE OF TORT
LITIGANTS' SEPARATE
STATEMENT OF UNDISPUTED
MATERIAL FACTS IN
SUPPORT OF MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

18477-002\DOCS_LA:138324.1

COMMITTEE SEPARATE STATEMENT -

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Pursuant to LBR 7056-1(a), the Committee of Tort Litigants hereby submits this Separate Statement of Undisputed Material Facts in support of its Motion for Partial Summary Judgment (the "Motion"), filed concurrently herewith. All defined terms herein have the meaning assigned to them in the Motion.

Undisputed Material Facts	Supporting Evid.
1. "The Catholic Bishop of Spokane is a Washington corporation, it's an entity formed under a statute here in the state of Washington."	1. Transcript of Meeting of Creditors, 1/5/05 ("Tr.") ¹ at 14:20-22.
2. "The diocese filed this reorganization case for a number of reasons. Specifically in order to reorganize its financial affairs under a reorganization plan . . . that will, among other things, fairly, justly and equitably compensate victims of sexual abuse by clergy and others associated with the diocese. . . ."	2. Tr. at 15:8-13
3. "The bishop is the head of that [central pastoral] office and is the one who exercises governance and oversight and pastoral ministry to the 81 faith communities."	3. Tr. at 27:5-7
4. "The bishop of the diocese, of course, is the – is the chief pastor and shepherd of the diocese and is the – is the final decision maker."	4. Tr. at 27:15-17
5. "[P]riests are considered to be agents of the bishop".	5. Tr. at 29:3-4
6. Q: "And it's the bishop who appoints the priests to the parish?" A: "That is correct."	6. Tr. at 29:8-10
7. "[W]e [the Diocese] do interact in an accounting way with parishes and schools"	7. Tr. at 32:5-6
8. The Catholic Charities, the Catholic Foundation, and the Spokane Investment Trust maintain their financial records at the Pastoral	8. Tr. at 27: 3-5; 38:20-22; 39:3-8

¹ See Exhibit 3 to Affidavit of James I. Stang, Esq., in Support of Committee of Tort Litigants' Motion for Partial Summary Judgment ("Stang Affidavit"), filed concurrently herewith.

1	Center, which is the "central pastoral office".	
2	9. The Deposit and Loan Fund is comprised of a	9. Tr. at 42:15-23
3	series of loans that the Diocese has made to	
4	parishes or "related diocese entities" and	
5	deposits that the parishes or "related entities"	
6	have made with the Diocese.	
7	10. The Deposit and Loan Fund is "the diocesan	10. Tr. at 42:23-24
8	banking system."	
9	11. The Diocese makes periodic payments to	11. Tr. at 49: 9 to
10	retired priests.	52:25
11	12. "Parishes are not audited."	12. Tr. at 63:19
12	13. The Diocese collects and disseminates priest	13. Tr. at 65:5-20
13	retirement funds.	
14	14. The Diocese has control over the foundation	14. Tr. 65:21 to 66:3
15	investment account, which contains interest	
16	earnings on an endowment for retired priests,	
17	and monies to support the parish service office	
18	and the office of education.	
19	15. The parishes provide the Diocese with annual	15. Tr. at 68:6-15
20	financial reports on a standard form that the	
21	Diocese requests be used.	
22	16. Unrestricted funds in the Deposit and Loan	16. Tr. at 72:22 to
23	Fund are property of the Diocese's estate.	73:1
24	17. The Diocese coordinates the billing of medical,	17. Tr. at 73:22-24;
25	dental, and retirement benefits for the parishes.	74:9-17
26	The Diocese does not charge the parishes for	
27	those services, nor do the Diocese and the	
28	parishes have a written agreement about same.	
	18. Transactions involving the Deposit and Loan	18. Tr. at 76:11-17
	Fund do not involve written agreements	
	between the Diocese, Fund, and/or the parish.	
	19. It is the policy of the Diocese that "[a]ll excess	19. Tr. at 89:10-24
	funds in the parishes and institutions of the	
	diocese must be deposited with the Catholic	
	Bishop of Spokane. These funds include all	
	ordinary savings, large gifts and moneys from	
	estates, building fund proceeds, and	
	anticipation of capital improvements, etc.	
	Annually, each parish and institution is	
	required to complete and present its financial	
	report to the bishop. The amount scheduled to	

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COMMITTEE SEPARATE STATEMENT - 2

1	savings must be on deposit with the diocese.”	
2	20. Diocesan norms are usual practices published	20. Tr. at 95:4-8
3	in written form in diocesan policy manuals that	
4	are posted on the Diocese’s website.	
5	21. A pastor, or parish priest, “acts as the agent of	21. Tr. at 96:13-18
6	the bishop in the respective parish.”	
7	22. The bishop approves loans from the Deposit	22. Tr. at 101:5-9
8	and Loan Fund to parishes.	
9	23. Parishes are unincorporated associations.	23. Tr. at 102:13 to
10		103:10
11	24. Parishes are unable to get funding or credit	24. Tr. at 103:9-10
12	from outside the Church hierarchy.	
13	25. --INTENTIONALLY OMITTED--	25. --
14	26. Bishop Skylstad has been Bishop of Spokane	26. Tr. at 110:11-13
15	since 1990.	
16	27. The Diocese thinks that “the individual parish	27. Tr. at 110:21-22
17	property is held in trust by the Bishop.”	
18	28. No documents exist in any county recorder	28. Tr. at 116:3-16
19	office in the State of Washington evidencing	
20	any parish’s alleged interest in real property	
21	listed in the Schedules of Assets and in the	
22	Statement of Financial Affairs.	
23	29. The Diocese is not aware of real estate title	29. Tr. at 118:12-25
24	insurance being in any parish’s name rather	
25	than in the Diocese’s name.	
26	30. The Bishop adopts and endorses as true the	30. Tr. at 128: 19-22
27	statements that the Diocese’s attorneys made	
28	during the 341(a) hearing.	
	31. “When a priest is ordained, he is incardinated	31. Tr. at 132:3-4
	in a diocese.”	
	32. The Bishop “has a responsibility of placing an	32. Tr. at 132:7-10
	assignment to priests who are – for whom he is	
	responsible, to make sure that pastoral services	
	are accomplished in the diocese.”	
	33. The Diocese has borrowed funds from the	33. Tr. at 133:19-24
	Deposit and Loan Fund to defray the costs of	
	the sex abuse.	
	34. Individual parishes were not asked for, and did	34. Tr. at 134:19 to
	not provide, permission for the Diocese to	135:11
	borrow funds from the Deposit and Loan Fund.	
	35. Rather, the Diocesan Finance Counsel, which	35. Tr. at 135:12 to

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COMMITTEE SEPARATE STATEMENT - 3

1	the Bishop appoints, consulted with the	136:12
2	Diocese regarding its borrowing of funds from	
3	the Deposit and Loan Fund.	
4	36. On the Statement of Financial Affairs, line 14	36. Tr. at 138:19-24;
5	relating to property held for another person, the	139:5-7
6	Diocese has the absolute right to make the	
7	ultimate decision to sell that real estate.	
8	37. A parish cannot sell the property listed on the	37. Tr. at 139:13-18
9	Statement of Financial Affairs, line 14, relating	
10	to property held for another person.	
11	38. The Diocese listed on its Schedule D a secured	38. Tr. at 147:15 to
12	creditor by the name of Asotin County	148:148:21
13	treasurer, which relates to a property tax bill for	
14	a parish property for the Holy Family Parish in	
15	Clarkson, Asotin County.	
16	39. The personal property insurance policy does	39. Tr. at 153:13-17
17	not contain riders providing in detail which	
18	personal property is covered by the policy.	
19	40. Parishes must ask permission of the Bishop to	40. Tr. at 162:20-25;
20	borrow more than \$30,000.	163:11-19
21	41. Parishes "don't have statutes and bylaws" but	41. Tr. at 167:12-17
22	they might have governing rules.	
23	42. Parishes "are governed according to the rules	42. Tr. at 167:19-20
24	and regulations of the diocese as well as canon	
25	law."	
26	43. "The diocesan priest is really closely – closely	43. Tr. at 171:18-19
27	associated with his bishop."	
28	44. "The bishop is the corporation sole."	44. Tr. at 176:6
	45. With regard to Statement of Financial Affairs,	45. Tr. at 185:4-14
	line 14, "money may have been raised at the	
	parish level for the purchase of property. Or in	
	other cases, the property may have been	
	purchased at the diocesan level and then	
	transferred as a debt to the parish. . . ."	
	46. Recently in Suncrest, the Diocese purchased	46. Tr. at 185:23 to
	property for \$125,000 "that now has become	186:2
	part of the building debt for that parish. It was	
	purchase[d] at the diocesan level but was	
	transferred to debt of that parish as part of their	
	building project."	
	47. All parish real property is titled in the name of	47. Tr. at 186:3-5

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1	the Diocese.	
2	48. Parish priests' retirement plan is set forth in a	48. Diocesan Policy
3	written agreement between the Diocese and the	Manual ("Manual") ²
4	priests of the Diocese.	Section 2.02.04
5	49. The Diocese "accepts the responsibility to	49. Manual Section
6	provide support for those whom it calls to Holy	2.02.05
7	Orders."	
8	50. "Because the bishop cannot be present	50. Manual Section
9	everywhere at all times in the exercise of his	2.07.01A
10	ministry . . . the bishop extends or shares his	
11	apostolic office with those he ordains to the	
12	ministerial priesthood."	
13	51. "The bishop is the personnel director of the	51. Manual Section
14	diocese. He alone finalizes the assignments for	2.07.01B(1)
15	priests of the diocese."	
16	52. "[T]he bishop may appoint whomever he	52. Manual Section
17	wishes for a position."	2.07.01C(3)
18	53. Over time, the Diocese of Spokane has created	53. Manual Section
19	distinct entities in accord with civil law	5.01.06
20	whereby assets could be segregated according	
21	to the mission for which various donations	
22	were intended. These entities are:	
23	- The Diocese of Spokane, civilly incorporated as	
24	the Catholic Bishop of Spokane, a sole corporation	
25	- The Catholic Foundation	
26	- Catholic Charities	
27	- Catholic Cemeteries of Spokane	
28	54. "The Spokane Catholic Investment Trust has	54. Manual Section
	been established to provide a pooled	5.01.07
	investment management vehicle for meeting	
	the long-term investment needs of participating	
	Church-affiliated entities within the Catholic	
	Diocese of Spokane."	
	55. Schools and parishes, among others, are	55. Manual Section
	"diocesan entities".	5.02.02
	56. "Under the laws of the State of Washington, all	56. Manual Section
	property in the diocese is owned by the	5.02.05
	Catholic Bishop of Spokane, a Corporation	
	Sole."	

² See Exhibit 11 to Stang Affidavit.

1	57. "This means that parishes, institutions, etc.	57. Manual Section
2	cannot legally own property in their own name.	5.02.05
3	There is no 'legal entity' of the parish to hold	
4	such ownership."	
5	58. "Title to all Church owned vehicles must be	58. Manual Section
6	held in the name of the Catholic Bishop of	5.02.05
7	Spokane, a corporation Sole, unless the	
8	ownership is held by an incorporated religious	
9	community or another civil corporation	
10	authorized by the Bishop of Spokane."	
11	59. "When purchasing a vehicle, show the address	59. Manual Section
12	of the legal owner as P.O. Box 1453, Spokane,	5.02.05
13	WA 99210."	
14	60. "Church owned vehicles and vehicles owned	60. Manual Section
15	by priests must be reported to and insured by	5.02.05
16	the Diocesan Insurance agent."	
17	61. "The Bishop of the Diocese of Spokane sets	61. Manual Section
18	forth the . . . norms regarding the establishment	5.02.07
19	and function of finance counsels" at the	
20	diocesan level and at the parish level.	
21	62. A Parish Finance Council shall "[a]ssist the	62. Manual Section
22	pastor in carrying out the fiscal policies and	5.02.07III.B.3
23	procedures established by the Bishop of	
24	Spokane and the Bishop's Finance Council."	
25	63. "The Parish Finance Council cannot be	63. Manual Section
26	dissolved without permission of the Bishop."	5.02.07VII.B
27	64. "All the parishes and institutions of the diocese	64. Manual Section
28	are entities of the Catholic Bishop of Spokane.	5.02.07VIII.A
	..."	
	65. "As incumbent Catholic Bishop of Spokane,	65. Manual Section
	the ordinary grants to each pastor authority to	5.02.07VIII.A
	carry out the ordinary financial management of	
	the entity including signing checking accounts,	
	yearly professional contracts, service	
	agreements and other ordinary instruments of	
	parish business".	
	66. "The Bishop alone retains the authority to sign	66. Manual Section
	capital construction contracts and property	5.02.07VIII.A
	contracts."	
	67. The Diocese controls the use of parish	67. Manual Section
	facilities, prohibiting, for instance, renting of	5.02.10

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1	facilities to political candidates or partisan	
2	groups, and requiring lease or rental or long	
3	term loan of use of parish facilities to be	
4	"cleared with the Diocesan Secretary for	
5	Business Affairs."	
6	68. "It has been the long standing policy of the	68. Manual Section
7	Catholic Bishop of Spokane that parishes and	5.03.01
8	institutions of the diocese are required to	
9	deposit excess funds (savings, building fund	
10	collections, etc.) with the diocese."	
11	69. "No parish or institution has legal standing to	69. Manual Section
12	contract loans and, therefore, all indebtedness	5.03.01
13	must be contracted by the Corporation Sole	
14	through the Deposit and Loan Fund."	
15	70. "LOANS TO PARISHES AND	70. Manual Section
16	INSTITUTIONS UNDER \$30,000: These	5.03.01
17	loans do not require a recommendation by the	
18	Finance Council, but should be reviewed by the	
19	Deposit and Loan Fund Chairperson. Such	
20	loans do require the approval of the Bishop in	
21	writing."	
22	71. "LOANS OVER \$30,000: These loans require	71. Manual Section
23	recommendation by the Finance Council. . . .	5.03.01
24	The Bishop will allow or disallow the loan	
25	after the Finance Council's recommendation	
26	has been made."	
27	72. "Civilly the Diocese is a single corporation, a	72. Manual Section
28	corporation sole. The assets of every entity and	5.03.03
	of the totality are at risk in the activities,	
	contracts, liabilities and decision of any entity."	
	73. "For the good of the whole, the Bishop is	73. Manual Section
	required to maintain a significant level of	5.03.03
	oversight. This corporate structure makes the	
	Bishop and the Bishop alone capable of	
	entering into binding contracts unless he has	
	specifically given power of attorney to another	
	person for that purpose."	
	74. The Bishop must approve of major	74. Manual Section
	construction and major renovation projects in a	5.03.03
	parish, from assessment to selection of	
	architects, review of construction documents,	


1	final decisions, review of bids, and signing of	
2	contracts by the Bishop.	
3	75. "[A]ll the parishes and institutions of the	75. Manual Section
4	Diocese are entities of the Catholic Bishop of	5.03.05
5	Spokane, a corporation sole."	
6	76. "Thus, legal title to all goods and real estate of	76. Manual Section
7	the Diocese, parishes and Diocesan institutions	5.03.05
8	is vested in the Bishop as a corporation sole."	
9	77. "Consequently, his [the Bishop's] consent is	77. Manual Section
10	required for the acquisition or alienation of	5.03.05
11	Diocesan property or of the property of	
12	parishes and institutions subject to him."	
13	78. Real property deeds convey the Disputed Real	78. Exhibit "1" to
14	Property to the Bishop of Spokane, a	Affidavit of James I.
15	corporation sole.	Stang, Esq., in
16		Support of
17		Committee of Tort
18		Litigants' Motion for
19		Partial Summary
20		Judgment ("Stang
21		Affidavit")
22	79. St. Patrick's Parish has acknowledged that it	79. Exhibit "5" to
23	cannot own bequeathed property, and that such	Stang Affidavit
24	property must be bequeathed to the Catholic	
25	Bishop of Spokane, a corporation sole.	

80. The Diocese is a Washington State non profit corporation.	80. Exhibit "7" to Stang Affidavit
81. The Diocese, not the parish, was the lessor of "access to and the use of the Parish Hall of Sacred Heart Catholic Church" in Springdale, Washington.	81. Exhibit "4" to Stang Affidavit

Dated: April 7, 2005

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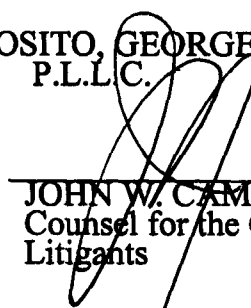
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